

THE LAW OFFICES OF
MICHAEL L. SPIEGEL
111 Broadway, Suite 1305
New York, New York 10006
Tel: (212) 587-8558
Fax: (212) 571-7767

MEMO ENDORSED

November 7, 2006

BY FAX TO (212)805-7930

Hon. James C. Francis IV
United States Magistrate Judge
United States District Court
500 Pearl Street, Room 1960
New York, NY 10007-1312

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04 Civ 7922 LEAD CASE

*DOCKET
IN BOTH
CASES*

Dear Judge Francis:

I write to request that Your Honor hold a brief conference with counsel for the parties in the above RNC cases at the conclusion of the scheduled conference on November 9, 2006. A conference is necessary to resolve a dispute concerning plaintiffs' request that private personal records of plaintiffs who are settling their cases be destroyed.

Defendants served Rule 68 Offers of Judgment on March 6, 2006. A total of 29 plaintiffs in the above-referenced cases either formally accepted the offer, or settled their cases on the same terms after expiration of the offer. Over the next six months, counsel for the parties negotiated the terms of Stipulations and Orders of Settlement and Discontinuance ("Stipulations"), rather than file the offers and acceptances and litigate the attorneys' fees portion of the offer.

Plaintiffs proposed that the Stipulations contain a paragraph obligating the City to destroy the private personal records of the settling plaintiffs, but subsequently agreed to accept a letter from counsel for defendants stating the same thing. Plaintiffs have now executed the Stipulations, and have been prepared to provide them to the City upon receipt of the proposed letter. On November 3, 2006, A.C.C. Dougherty informed me – for the first time – that the City would not provide such a letter.

The records at issue are as follows: social security numbers provided by plaintiffs pursuant to the Court's January 19, 2006, Order; any records obtained from third parties through releases or by subpoena (e.g., medical and mental health records, and "rap sheets" from DCJS); and any private documents produced by plaintiffs in discovery (e.g., credit card statements or

travel documents produced in support of economic damages). //

Plaintiffs respectfully request that this Court conduct a conference to consider an Order directing defendants to destroy the above-described records of the plaintiffs who desire to settle their claims.

Respectfully submitted,



Michael L. Spiegel
[MS-0856]

MLS:ms

cc: A.C.C. Jeffrey A. Dougherty (by fax)

12/7/06

Defendants' counsel shall destroy the private information indicated above for any settling plaintiff who represents that he or she will not testify for other plaintiffs in the related cases or, in the absence of such a representation, at the conclusion of the RNC consolidated litigation.

SO ORDERED.

James C. Francis IV
JFM
DSMJ